



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Authorize City Manager to Approve Payment to the Downtown Lodi Business Partnership in the Amount of \$15,000 Reimbursing for Collection Services, Fiscal Years 2000-2001 and 2001-2002

MEETING DATE: February 20, 2002

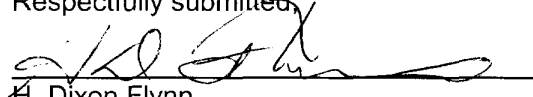
PREPARED BY: Janet L. Hamilton, Management Analyst

RECOMMENDATION: That the City Council authorize the City Manager to approve payment to the Downtown Lodi Business Partnership in the amount of \$15,000.

BACKGROUND: The Downtown Lodi Business Partnership has submitted an invoice (attached) to the City of Lodi for Benefit Fee billing and collection services provided by the Partnership. Ordinance 1654 Section 9 of the Lodi Municipal Code states that the "City will bill and collect the fees, at no charge to the Area". The Partnership has assumed the responsibility of billing and collecting these benefit fees for the past two years and seeks to recover estimated costs in the amount of \$7500 per year for fiscal years 2000-2001 and 2001-2002.

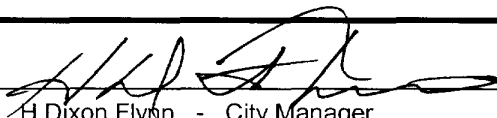
FUNDING: Contingency.

Respectfully submitted,


H. Dixon Flynn
City Manager

Attachments

APPROVED: _____


H Dixon Flynn - City Manager

JAN 17 2002
City Manager's Office



DOWNTOWN LODI BUSINESS PARTNERSHIP

January 16, 2002

Mr. Dixon Flynn, City Manager
City of Lodi
City Hall
Lodi, CA 95240

Subject: Request for payment---Assessment billing and collection 2000/2001

Dear Dixon:

Following our meeting of January 10 in your conference room, I reported the results of our discussions to the DLBP board concerning the assessment billing and collection.

The DLBP board has authorized me to request payment in the amount of \$15,000 for the years 2000/2001 assessment billings that we have done.

As we mutually agreed, the ordinance #1654 is very clear in stating the City will do the billing and collection at no cost the assessment area.

Sincerely,

Lewis F. "Lew" Van Buskirk
Executive Director

CC Peter Westbrook, President, DLBP
Tony Goehring, Economic Development Director, City of Lodi

NOTE---NEW E mail address---dlbp@1stpage.com

P.O. Box 1565 Lodi, CA 95241 (209) 369-8052 FAX (209) 369-8053
Office located at 4 W. Pine Street, Lodi (corner of Pine & Sacramento St.)
e-mail: dlbp@mindspring.com

Downtown Lodi Business Partnership

4 W. Pine Street
PO Box 1565
Lodi, CA 95241

Invoice

Date	Invoice #
1/17/2002	801

Bill To

City of Lodi---FINANCE DEPARTMENT
Vicky McAthie Finance Director
P.O.Box 3006
Lodi, CA 95241-1910

Qty	P.O. No.	Terms	Project
		Due on receipt	
Description		Rate	Amount
Billing & Collection of Assessments & Penalties under Ordinance No. 1654 for Downtown Assessment area for the years 2000 and 2001		15,000.00	15,000.00
Total			\$15,000.00
Payments/Credits			\$0.00
Balance Due			\$15,000.00

Jong Gochring

ORDINANCE NO. 1654

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING TITLE 12 – STREETS, SIDEWALKS AND PUBLIC
PLACES ADDING CHAPTER 12.06 TO THE LODI MUNICIPAL
CODE ESTABLISHING THE DOWNTOWN LODI BUSINESS
IMPROVEMENT AREA.

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NOW THEREFORE the City Council of the City of Lodi does ordain as follows

SECTION 1. Chapter 12.06 is hereby added to the Lodi Municipal Code, to read as follows:

CHAPTER 12.06 DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1.

- 1.0 Resolution of Intention, Public Hearing and Findings. The Recitals hereof, which set forth facts regarding the adoption of Council Resolutions, the conduct of public hearings and certain findings of the City Council, are true and correct and incorporated herein by reference.
- 2.0 Definitions. In order to distinguish between Area businesses and for the purpose of calculating and applying the amount of benefit fees owed, the following definitions shall apply:
 - (a) Retail Businesses: "Retail Businesses" include all businesses not covered by other definitions set out in this section, at least fifty percent (50%) of whose gross income is derived from "retail sales" as that term is defined under the California Sales and Use Tax Law. The fact that a substantial part of its business consists of sales other than retail sales does not exclude said business from this classification so long as such other business component does not account for more than fifty percent (50%) of said business' gross income;
 - (b) Restaurants: "Restaurant" businesses include cafes, eating establishments, sandwich shops, dinner houses, restaurants and fast food services and other similar businesses;
 - (c) Lodging: "Lodging" businesses include inns, hotels, motels, RV Parks and other similar businesses;
 - (d) Service: "Service" businesses include general office, news and advertising media, printers, photographers, personal care facilities and outlets, service stations, repairing and servicing businesses, renting and leasing businesses, utilities, vending machine businesses, household finance companies, entertainment businesses, theaters and other similar businesses not otherwise included in types 1, 2, and 4 hereof definitions a, b, c, e, or f of this Section;

- (e) Professional: "Professional" includes attorneys, architects, accountants, engineers, surveyors, physicians, dentists, optometrists, chiropractors and others in a medical/health service field, consultants, real estate brokers, financial advisors, laboratories (including dental and optical), hearing aid services, artists and designers.
- (f) Financial: Banks, savings & loans, credit unions, etc.
- (g) Billing Period: "Billing Period" shall refer to the period beginning January 1 to and including December 31 of any year.

3.0 Establishment of Boundaries. A parking and business improvement Area is hereby established pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code §36500 et seq. (The Act). The boundaries of the Area and the benefit zones within the Area shall be as set forth on Exhibit "A", attached hereto and incorporated herein by reference. This Area shall be known as the "Downtown Lodi Business Improvement Area No.1" (the "Area").

4.0 Establishment of Area Board of Directors. There shall be a Board of Directors ("Board") of the Area to administer the affairs of the Area. Said Board shall be composed of no less than 10 nor more than 25 member businesses of the Area. The initial Board shall be approved by the City Council from a list of business operators located in the Area that is submitted by the Business Improvement Area Formation Committee. Within the Board there shall be a President, Vice-President, Secretary and Treasurer elected by the membership, and such other officers as deemed necessary by the Board. Such other officers shall be appointed by the Board of Directors at their discretion. All voting within the Area regarding election of Board Members and any actions regarding the normal and routine conducting of Area Business shall be based on one (1) vote per benefit fee dollar, and said voting business must be current in payment of their Area benefit fee(s) to participate in such votes.

5.0 Establishment of Benefit Fee. All businesses, trades, and professions located within the Area boundaries shown on Exhibit "A" shall, commencing January 1, 1998, pay an annual benefit fee in the following amounts:

Lodi Area Annual Benefit Fee

	Zone A	Zone B
Retailers and Restaurants	\$ 200. (1-3 emp.) 300. (4-6 emp.) 400. (7 + emp.)	\$ 100. 150. 200.
Service Businesses	\$ 150.	\$ 75.
Professional Businesses	\$ 100.	\$ 50.
Financial Institutions	\$ 500.	\$ 500.

6.0 Purpose and Use of Benefit Fees. The types of improvements and activities proposed to be funded by the benefit fee paid by businesses in the Area are as follows:

a. Improvements including the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following improvements:

- (1) Benches;
- (2) Trash receptacles;
- (3) Decorations;
- (4) Facade improvements;
- (5) Permanent landscaping

b. Activities including but not limited to the following:

- (1) Promotion of public events which benefit businesses in the area and which take place on or in public places within the area;
- (2) Furnishing of music in any public place in the area;
- (3) Activities which benefit businesses located and operating in the area, including but not limited to downtown shopping and promotional programs.

7.0 Exclusions From Benefit Fees. No person or business shall be required to pay a fee based on: (a) a residential use of the property within the Area, or (b) a non-profit organization as defined by §501 (C) (3) or 501 (C) (6) of the Internal Revenue Service Code located within the Area.

8.0 New Business Fee Waiver. Any new business established within the Area shall not be required to pay a fee for the Billing Period during which said business is initiated. The business will have been considered initiated on the date of issuance of the business license. This waiver shall not apply to an existing business that has changed ownership or location within the Area. City agrees to supply the Area Board with timely information regarding new businesses initiated within the Area.

9.0 Collection of Benefit Fee. The benefit fee authorized by this Ordinance for Lodi businesses (Section 5.0 hereof), shall be billed and collected once each Billing Period on January 1. City will bill and collect the fees, at no charge to the Area and forward all funds collected to the Area within 30 days of said collections. Late payment penalties shall be applied to businesses that do not provide their respective fee payments on the dates provided for herein at a rate of 10% per month. At such time as late payment penalties equate to 50% of the total annual fee, action shall be taken to recover said delinquent fees. Costs of this recovery

shall be borne by the business owing the fee and late penalties. The Board and City shall develop collection procedures to implement the provisions of this paragraph.

- 10.0 Voluntary Contributions to Area. Contributions to the Area and its Board shall be permitted on a voluntary basis. The boundary of the Area shall not be modified as a result of the contribution, nor shall said contributing business be considered a member of the Area for voting or other purposes. However, said business making a voluntary contribution may be entitled to participate in the programs of the Area upon a finding by the Board of Directors that the Area derives a benefit from said business' participation in the program.
- 11.0 Annual Budget Process. Pursuant to the Act, it shall be necessary for the Board to present, by September 1, an annual budget for City Council review and approval prior to the beginning of any Billing Period. The purpose of this process is to comply with the Act provisions regarding public notice and hearing prior to establishing the benefit fees for the following Billing Period. City shall not adopt, modify or otherwise amend any Billing Period budget of the Area that is inconsistent in any way with said Billing Period's budget as agreed to and presented by the Board except in the case of a written majority protest (regarding elimination or modification of any specific budget item) from business owners which will pay 50% or more of the fees proposed to be levied as to any specific budget item pursuant to Streets and Highways Code §36525 (b). In such case the written protest regarding any specific budget item shall be grounds to eliminate or modify said expenditure from the Area's proposed budget pursuant to the written protest.
- 12.0 Decisions Regarding Expenditure of Funds. As provided for within the guidelines of The Act, decisions of the Board regarding expenditure of all funds generated under this program shall be final.
- 13.0 Area Proceeds Do Not Offset City Services. City specifically finds and declares that the funds derived from the Area shall not be used to offset or diminish current maintenance, capital improvement programs, including but not limited to, public property and sidewalk cleaning, street cleaning and maintenance, tree maintenance, restroom cleaning and maintenance. The City declares its intent to provide at least the same level and standard of maintenance and repair of public property within the Area providing City funds are available from year to year.
- 14.0 Public Parking. The proceeds of the benefit fees established hereunder shall not be used to acquire and/or construct additional public parking, unless such use of the funds is first approved by a majority vote of the Area members voting.
- 15.0 Disestablishment of the Area. Proceeding to disestablish the Area shall be initiated by the City Council following the presentation of a petition to the City Council signed by business owners paying 50% or more of the fees levied in the Area. Proceedings to disestablish the Area shall follow the procedures set forth in Streets and Highways Code § 36550. The City Council shall disestablish the Area if, following the public hearing prescribed in §36550 (b), written protests are not withdrawn so as to reduce the protests below the 50% level. In the event of

disestablishment of the Area, remaining revenues of the Area maintained by the Board shall be refunded to paying business owners in a pro-rata manner calculated in the same manner as was used to establish the most recent fees applied in the Area.

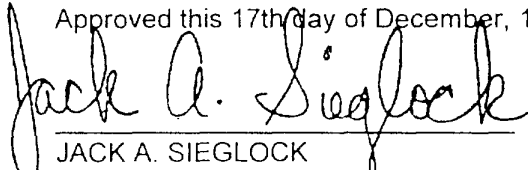
Section 2. - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

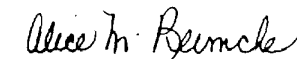
Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 17th day of December, 1997


JACK A. SIEGLOCK
Mayor


Attest:


ALICE M. REIMCHE
City Clerk
State of California
County of San Joaquin, ss.


I, Alice M. Reimche, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1654 was introduced at a regular meeting of the City Council of the City of Lodi held December 3, 1997 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held December 17, 1997 by the following vote:

Ayes:	Council Members - Land, Mann, Pennino, Warner and Sieglock (Mayor)
Noes:	Council Members - None
Absent:	Council Members - None
Abstain:	Council Members - None

I further certify that Ordinance No. 1654 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.


ALICE M. REIMCHE
City Clerk

Approved as to Form:


RANDALL A. HAYS
City Attorney